NORTH CAROLINA DEPARTMENT OF CULTURAL RESOURCES
OFFICE OF ARCHIVES AND HISTORY
DIVISION OF HISTORICAL RESOURCES
ARCHIVES AND RECORDS SECTION

E-MAIL AS A PUBLIC RECORD IN NORTH CAROLINA

Guidelines for Its Retention and Disposition

August, 2002

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INTRODUCTION

PURPOSE: These guidelines and a current records retention and disposition schedule advise or instruct public employees and contractors how to manage and dispose of electronic mail (e-mail) messages.

***Electronic mail is a public record* when *sent or received in normal business processes* (according to G.S. §121-2(8) and §132-1); electronic mail *may not be disposed of, erased, or destroyed without authorization from the Department of Cultural Resources*.**

E-mail is a communications tool used by North Carolina government agencies.

E-mail systems change workflow and the way government employees communicate with one another and the public. E-mail systems create records that must be identified, categorized, and appraised for specific values. Under North Carolina's Public Records Act (chapter 132 of the *General Statutes of North Carolina*), the e-mail content is subject to the same access and inspection conditions as other records, unless exempted from access by another statute. Privacy considerations, records retention scheduling requirements, and other laws and regulations also apply to e-mail content.

Agencies and local governments retain e-mail messages to satisfy agency needs, record-keeping requirements and to comply with the law. Retention and record-keeping responsibilities often are delegated to individual users (senders/receivers). Government employees face this challenge of managing e-mail, particularly those who make it an important part of their work.

The Office of Archives and History assumes that every government agency or other political unit in North Carolina sends and receives e-mail or will shortly do so. E-mail (unless personal in nature) may contain valuable office administrative and management information. It may also document office operations, activities, and business functions. Like paper records—memoranda, correspondence, reports, and numerous other record types traditionally received through interoffice, U.S. mail or other avenues—e-mail can have administrative, legal, reference, and/or archival values.

Users, e-mail system administrators, and agency managers should be familiar with laws and regulations governing access to e-mail and other messages:

- "Accessing computers"—NCGS §14-454
- "Damaging computers, computer systems, computer networks, and resources"—NCGS §14-455
- "Computer trespass; penalty"—NCGS §14-458
- "Misuse of state property"—NCGS §114-15.1
- North Carolina Public Records Act—Chapter 132 of the *General Statutes of North Carolina*—Defines a public record and establishes responsibilities for its access, ownership, and destruction.
- Information Resources Management Commission Policy and Guidelines for Developing Filtering and Monitoring Policies for State Employees and Third Party Contractors Using State Information Systems—http://irmc.state.nc.us/documents/approvals/
- Information Resources Management Commission Use of the North Carolina Integrated Information Network and the Internet (revision #4, effective January 8, 2002)—http://irmc.state.nc.us/documents/approvals/

- Information Resources Management Commission E-mail Notification Policy (revision #4, effective March 5, 2002)— http://irmc.state.nc.us/documents/approvals/.

E-mail is used increasingly more often as evidence or in official actions. E-mail must be managed to meet retention requirements and legislated mandates. Good management is achieved through a combination of policies, good system design, and sound management practices. Training e-mail system users helps them answer questions about managing their messages, such as:

- **Are e-mail messages public records?**
- **Do I have to keep e-mail that I send or receive?**
- **Who is responsible for managing e-mail messages?**
- **How long must I keep e-mail?**

Recommendations in these guidelines assist managers, e-mail system and network administrators, and users to manage and preserve e-mail. The guidelines help managers and administrators identify e-mail messages and make them available for public information requests. The guidelines advise how to retain messages to satisfy business needs, programs, and record-keeping requirements.

Agency representatives with questions about e-mail management, or retention and disposition can telephone the Government Records Branch of the Archives and Records Section at 919-733-3540, or email records@ncmail.net, or visit its website at http://www.ah.dcr.state.nc.us/sections/archives/rec/default.htm.

E-MAIL AS A RECORD

Are e-mail messages public records?

Yes, if they are used to transact public business. The Public Records Act says a public record is any information, regardless of physical form or characteristic and including electronic data processing records, made or received in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. (Emphasis added.)

Some examples of e-mail messages (including messages with attachments) that are public records and therefore covered by these guidelines include:

- ✓ policies and directives
- ✓ correspondence related to official business
- ✓ work schedules
- ✓ meeting agendas or minutes
- ✓ any document that initiates, authorizes, or completes a business transaction
- ✓ reports
- ✓ draft documents that are to be reviewed and/or commented upon.

Approved records retention and disposition schedules address these examples, which are found with other record types, within appropriate records series descriptions. Whether records originate or are received as e-mail does not affect their status as public records. Public records also can be attached to an e-mail.

Other e-mail messages qualify as public records but have extremely limited value. Examples include:

- ✓ "Call me when you return to your office."
- ✓ "Can you meet on Thursday?"
- ✓ "There is an interesting article on this subject at _____."
- ✓ "Budget requests are due on the 30th."
- ✓ Other messages with short-term value as described in "North Carolina Public Records With Short-Term Value, Guidelines for Their Retention and Disposition," currently at http://www.ah.dcr.state.nc.us/sections/archives/rec/shortterm.htm.

Messages with similar short-term value may be disposed of in conjunction with an approved records retention and disposition schedule, or when they no longer have reference value to the sender or receiver of the message. See "Retention and Disposition of E-mail" on page 8.

Personal e-mail is not a public record and should be avoided altogether or used sparingly.

ORGANIZING YOUR E-MAIL

Who is responsible for managing e-mail messages?

Although the administration of e-mail systems may differ, typically users are responsible for managing individual e-mail messages. Good management means organizing messages and disposing of them properly. Organizing e-mail in a record-keeping system adds effectiveness to its overall management.

A record-keeping system:

- is a manual or automated system in which records are collected and organized.
- **allows e-mail to be categorized to facilitate preservation, retrieval, use, or disposal.**
- possesses several characteristics that assist with managing e-mail messages:
    - provides for the grouping of related records into classifications according to record purpose;
    - permits easy and timely retrieval of individual records or other groupings of related records;
    - retains records in a usable format for the required retention period as outlined in a records retention and disposition schedule;
    - permits individuals who have a need for information in the system to get to it easily.

Categorizing and organizing e-mail so that it is accessible at a later date is a challenge even when using a record-keeping system. As the volume of e-mail increases, so does the difficulty of this task. **Simply leaving incoming messages in an "In-box" and outgoing messages in a "Sent Items" folder is inefficient. In addition, many systems are set up to automatically delete messages from these folders after a set period of time. Key messages left in these folders could be deleted without your input or knowledge.**

There is no widely accepted method for organizing e-mail messages. Several organization scenarios exist for e-mail management; but all present potential problems to the individual user. Therefore, users should consult their system administrators and/or information technology staff before establishing an e-mail categorization system. Several options are presented here, along with some difficulties with which users must deal if e-mail is to be retained for longer than a year of two. The implementation of one of the options is not mandatory. Users should adopt the method that best suits their needs.

Organizing Your E-mail, Option 1:

Establish logical, organized sets of mailboxes or folders in which to store incoming and outgoing messages locally. The presence of a formal record-keeping system makes this task simpler, or may automate it to a large degree. Traditional filing methods can be used when developing schemes for these mailboxes or folders. For example, in a traditional subject filing system, a manageable group of broad categories is established, then each category is divided into more specific topics. The same technique can be applied in an e-mail folder system. See figure 1.

This option may solve the short-term obstacles users face when organizing e-mail for later retrieval. However, users may find themselves unable to retrieve or readily manipulate the messages if they reside within a proprietary e-mail client

system. For example, a user may use Microsoft Outlook or Outlook Express, Netscape, or GroupWise as an e-mail client. Should the user's organization change to a different client, transferring messages into the new system is difficult, if not nearly impossible if a large volume of messages is involved. Short of maintaining both new and old clients, users are in danger of losing access to older messages or spending a great deal of time reformatting and transferring them into the new system.

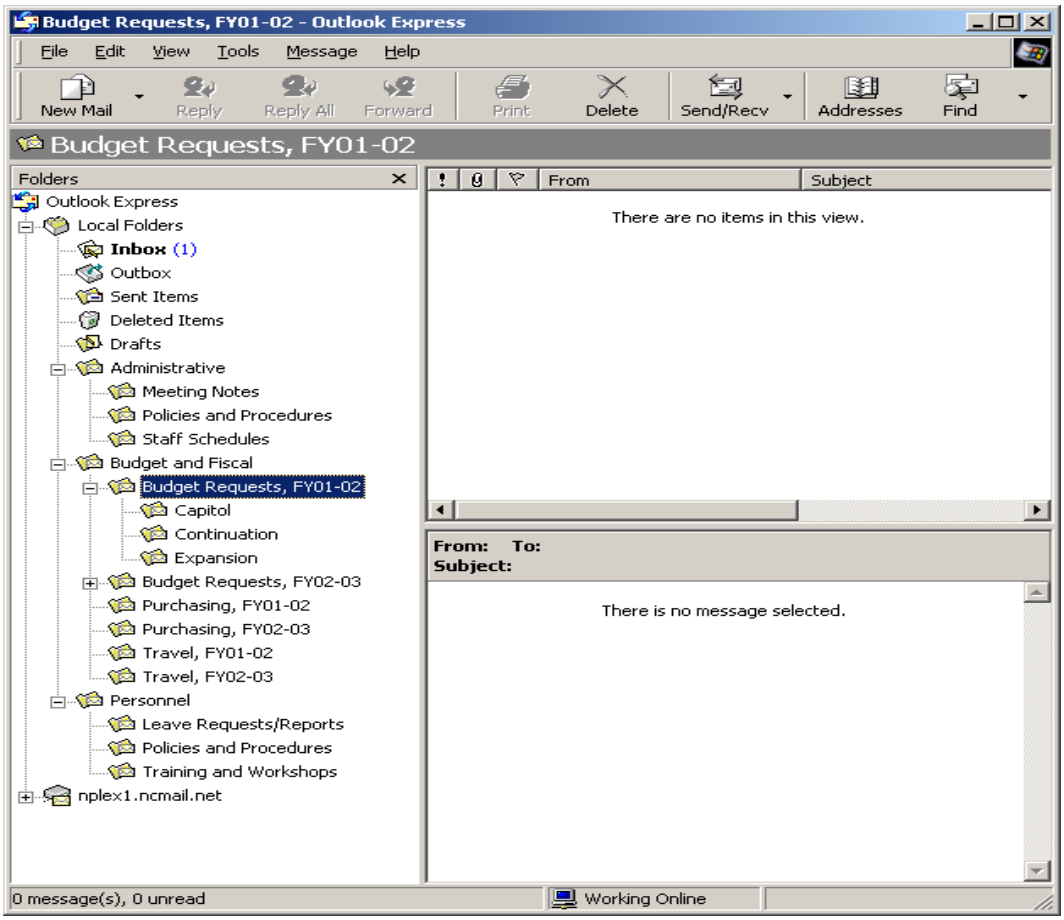

Figure 1

*Note: this is only an example of an e-mail message filing structure. You will name your folders/mailboxes differently to reflect existing filing schemes in your office. Another method is to sort e-mail messages into folders/mailboxes that are similar to series identifiers in your records retention schedule.

Organizing Your E-mail, Option 2:

Establish a logical folder system on your computer's local disk or on the server by mirroring your email organization and store the messages in these folders as text files. Users may need to consult with system administrators or information technology staff for training on establishing these folders as well as space considerations regarding the server. You should continue to apply retention schedules to these records and properly dispose of those that have met retention.

Establishing folders on a local disk and saving messages as text files eliminates the difficulties in retrieving or manipulating messages that are accessible only to the originating e-mail client. Storing messages in such a manner makes them accessible using virtually any software, independent of the e-mail client. See “Preservation of E-mail” on page 10. In addition, this method serves a dual purpose. Information that you deem important is captured. If you migrate from one client server to another, you will still be able to access the information because there are no compatibility issues regarding the different software.

Figure 2 below depicts a folder structure on a computer’s local disk. Your naming scheme for folders may vary.

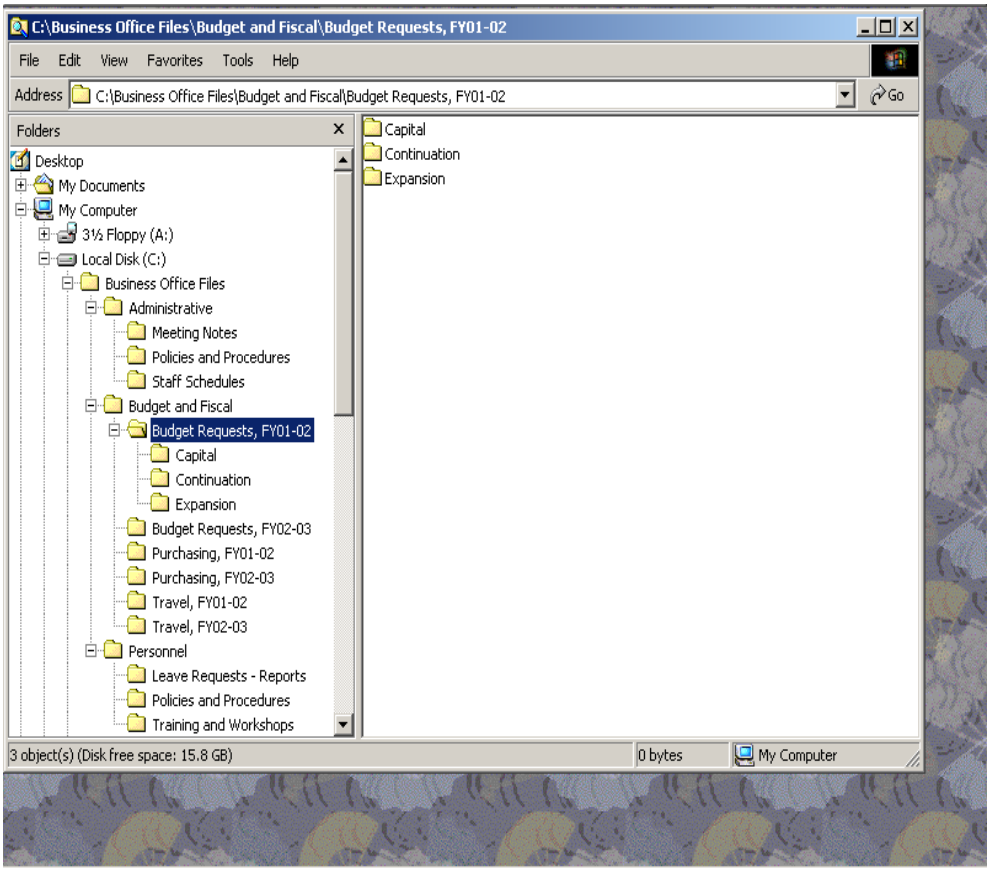

Figure 2

Organizing Your E-mail, Option 3:

Work with agency administrators, users, and information technology staff to establish consistently named folders or mailboxes in an e-mail server environment. This alternative often provides better security measures for the e-mail. It also ensures that e-mail is backed up routinely as part of regularly executed security processes. Users are responsible for backing up locally stored messages (and other electronic records) and should do so on a consistent basis.

Information technology staff must be familiar with existing requirements for maintaining and preserving the e-mail they manage. **Periodically notifying users and instructing them to purge e-mail because of space limitations,**

without consideration of records retention requirements, jeopardizes information with specific legal, fiscal, administrative, or historical value. It also puts the agency at unnecessary risk should the content of purged e-mail be needed for administrative or other official actions.

Again, the unique characteristics of the e-mail client must be considered before choosing this option. Also, there is a risk when maintaining e-mail in this environment that it and other data will be erased. This could happen as a result of equipment failure or accidental erasure. Maintaining e-mail messages locally on a personal computer does not reduce or negate this risk.

Once a user establishes an organizational framework in which to file and store e-mail messages, each user should file the messages promptly and routinely. This adds a sense of consistency to the way e-mail is managed. Senior administrators and supervisors can simplify user e-mail management responsibility by establishing office-wide folder/mailbox naming schemes. Training on system specifications, records management requirements, and filing techniques helps users with this process.

Be aware that computer hardware space limitations affect how many messages can be stored. Those limitations often hinder one's ability to manage e-mail properly throughout its life cycle. Administrator-sanctioned restrictions on message quantities per user may force users to examine message content value more critically.

RETENTION AND DISPOSITION OF E-MAIL

Do I have to keep e-mail that I send or receive?

It depends upon the value of the content of the e-mail message. There is no single "record series" for e-mail. Individual e-mail messages may belong in many different records series depending on their subject matter. Public employees who use e-mail should retain or destroy messages by following the provisions of a current records retention and disposition schedule. A schedule provides for the legal and orderly disposition of obsolete records. This requires agency representatives to be familiar with all their record-keeping practices and responsibilities, and to understand e-mail's function in relation to carrying out those duties. E-mail is normally a small component of a program or activity. E-Mail record value must be compared to the value of the programs it supports, other related records and to user needs.

The characteristics of the e-mail message medium often give these records dual identity. For example:

- E-mail messages might have reference or administrative value and at the same time be of a temporary nature.
- E-mail messages function in some ways like telephone calls or messages. Their reference or administrative value ends when the user no longer needs the information in the record.

E-mail of temporary or rapidly diminishing value may be erased or destroyed when the user determines that its reference value has ended. See "E-mail as a Record" on page 3.

The retention and disposition of e-mail messages must be addressed early in the process of establishing the e-mail system. If the system already exists, the retention and disposition of e-mail must be discussed and formalized by users, appropriate agency authorities, and information technology staff.

Good system performance and compliance with public records laws rely upon the resolution of several issues. These include the length of e-mail retention; factors related to e-mail storage, organization, and accessibility; consideration of the risks associated with retaining e-mail longer than necessary; and options for disposing of/purging e-mail.

POLICIES AND PROCEDURES

Along with the guidelines laid out in this publication, agencies should establish their own policies that educate users about their roles in using, managing, and retaining e-mail. Those policies should be as comprehensive as possible, enforced, and updated. Recommended topics to address in e-mail policies and procedures include:

- Records communicated via e-mail systems are public records under the state's Public Records Act;
- E-mail messages must be easily identifiable, protected, and retained for an appropriate period of time;
- The method of e-mail storage—in a centralized network or on individual computers;
- Backup and recovery procedures; and
- The penalties for using e-mail inappropriately or for purging messages without authorization.

E-mail proliferation demands comprehensive e-mail use policy and procedure.

In North Carolina governments, an agency-specific e-mail use and management policy should contain enough detail for users. It also should be developed with consideration of existing policies, such as the policy "Use of the North Carolina Integrated Information Network and the Internet," adopted by the North Carolina Information Resources Management Commission (IRMC) on June 1, 1999 (and subsequent revisions). The policy is available at http://irmc.state.nc.us/.

Established policies and procedures guide employees and contractors as they use e-mail as a communications tool. But, users also must recognize certain risks associated with doing business electronically:

- E-mail systems and the media on which messages are stored can be insecure;
- E-mail in transmission is no more private than a postcard;
- Standard customs exist that establish proper language and tone of e-mail messages;
- E-mail often is used informally but may be interpreted as a formal communication;
- E-mail is not a proper method for discussing confidential matters, such as personnel issues, unless encrypted; encryption requires policies and procedures to assure future access (when appropriate) to enciphered documents;
- E-mail messages can be forwarded to individuals not intended to read them.

Failure to consider such issues can lead to misuse of e-mail or its improper management and expose an agency to unnecessary legal risk. Consult your agency's legal counsel if you have questions about legal issues surrounding e-mail and its use.

PRESERVATION OF E-MAIL

How long must I keep e-mail?

It depends upon the e-mail message content value and instructions provided in an approved records retention and disposition schedule. Government employees need to pay particular attention to the complex requirements for retention of some e-mail for longer periods of time. E-mail in this category must be retained for as long as the period specified in a valid records schedule and may be retained in electronic or paper form. The latter may in some cases be the only means for archival retention, for example, through eventual microfilming of the paper documents.

Retaining messages in paper form poses several issues:

- The ability to search for messages electronically is lost if they are printed;
- If messages are deleted they cannot be resent at a later date;
- Compliance is difficult to monitor if each user has the added responsibility of printing and filing his own messages;
- Retaining messages presumes the existence of an organized and easy-to-use paper filing system;
- Adequate storage space must exist in file rooms or filing equipment;
- Email that is printed must capture transmission, distribution and receipt data. Such data contributes to preservation of message content, context and structure, but not in a processible form.

If e-mail is retained electronically, administrators need to ensure that their system (client server, mainframe computer in or outside their agency, or office personal computer) accommodates e-mail retention for the required period of time.

Agencies may need to contact relevant personnel at Information Technology Services (ITS), or at their own information systems office to ensure that systems process e-mail according to records retention schedules. (NOTE: ITS does not maintain records for agencies according to the individual agency's records retention schedule. Rather, ITS performs routine backups and stores records off-site in case of a disaster. The agency owns and manages the records; thus, if the agency determines the disposition of its records, it should coordinate with ITS to destroy information at ITS. It also is critical that the electronic environment maintain general integrity and security, and be capable of resuming functions in the event of a natural or man-made disaster.

Some e-mail messages have permanent, archival value as part of a series of records listed in an approved records retention schedule.

For those messages, often it is impractical to print the messages and interfile them with other paper records Due to the difficulties of maintaining those records over time, the Division reserves the right to delegate the responsibility of long-term or permanent maintenance of e-mail in its electronic environment to the creating agency. In cases where offices maintain e-mail messages electronically either to be retained permanently or long-term or transferred to the Division, the following requirements apply:

- ✓ The e-mail messages must be clearly identifiable as part of a distinct series of records listed in an approved records retention schedule, and that series must be archival.

- ✓ The e-mail messages must be organized in a system, so that one may determine the general topic to which the messages relate. In other words, a large number of e-mail messages in an undifferentiated mailbox or folder and lacking organization and identifying characteristics will not be accepted.
- ✓ Messages transferred to the Division must have metadata* concerning the e-mail and its related electronic records recorded on the Division's electronic records inventory form, available at http://www.ah.dcr.state.nc.us/sections/archives/rec/default.htm.

[*Metadata, defined as "data about the data", describes how, when, and by whom a particular set of data was collected and formatted. Metadata is essential for understanding information created electronically. With e-mail messages, metadata includes sender/recipient(s) information, dates of transmission, creating organization's name, and other data.]

FILE FORMATS

The challenge of preserving e-mail messages and other electronic records becomes greater if the format in which the messages are written is proprietary (supported by just one type of software). Therefore, the Division advises offices to convert messages with long-term value to an open, widely accepted form, such as:

- Rich Text Format (RTF), which can be opened in many word processing software programs.
- American Standard Code for Information Interchange (ASCII), identifiable by a TXT extension—ASCII is a plain-text format that, like RTF, is software independent. However, ASCII is *literally* plain—the representation of special formatting instructions (e.g. italics or bold type) is lost when text documents are converted to ASCII, and a good deal of the document's structure therefore is lost, too.
- Hypertext Markup Language (HTML) or Extensible Markup Language (XML)—These are file formats that contain embedded instructions for displaying the content of the document.

NOTE: Information technology staff may have to assist with converting large quantities of e-mail to one of these formats. These file formats may work well for the textual documents that are often attached to e-mail messages, such as word processing documents. In cases where attachments are complex files such as computer-aided drawings or databases, it may be more advisable to retain them in their original format, along with the software and operating systems required to access them; thus, preserving the structure of the records.

MEDIA CONSIDERATIONS

The media on which e-mail messages are stored is fragile and not ideally suited for long-term preservation.

Agencies that retain e-mail must provide a suitable storage environment and proper care and handling procedures. Agencies should research life expectancy estimates for storage media. Agencies also should develop systems to check the content of the media periodically and to convert to new media when necessary.

The practice of storing e-mail messages with long-term value on machine-readable media such as CD-ROM, 3480 tape, or digital linear tape presumes that the hardware and software required to read the data will exist into the future. The Division reserves the right to accept into the State Archives e-mail stored only on those media it has the ability to read, and only in one of the above-named formats—ASCII, RTF, HTML or XML. Because the list of commonly used media can be counted on to change as accepted technologies change, and as systems adapt to using

standardized hardware, please contact the Division for information concerning currently acceptable media. Currently an acceptable transport medium is CD-ROM (ISO 9660 or Joliet Modifications compatible), but in most cases the Division will transfer its contents to another medium that allows for more flexible treatment of the records.

Agencies must understand (as does the Division) that business practices and retention requirements often dictate the technology and media used to create and store e-mail and other electronic records.

Again, due to the resources required to maintain the reliability, processibility, authenticity, readability, and retrievability of e-mail messages and other electronic records, the Division will address the transfer of these types of records on a case-by-case basis. It may delegate the responsibility of long-term maintenance and preservation to the creating agency.

Agencies that maintain e-mail messages and other records in an electronic format should act proactively to manage them. This becomes easier through:

- **Policy**—Policies must be in place so that users understand appropriate uses of e-mail, why e-mail is a public record, and why it must be accessible. E-mail content has potential value to the agency as a historical record, and users have a role in preserving it.
- **Business Process Understanding—*Users of e-mail must understand the ways in which e-mail has changed workflow and business practices in recent years.***
- **Staff Training**—Users of e-mail, as well as IT professionals who will be asked to preserve it over time, must receive training regarding the issues outlined in these guidelines.

Agencies retaining e-mail messages with long-term value should be aware of the commitments this activity requires:

- **Financial**—Agencies must commit fiscal resources to ensure the migration of e-mail messages from old to new media, to account for adequate and proper storage space and environments, and to hire properly trained staff to manage and oversee the collection as part of its duties.
- **Information Technology (IT)**—A commitment to IT is required to ensure that plans exist which recognize the ultimate preservation of e-mail messages as part of the IT life cycle. A robust and flexible IT infrastructure also will be needed to maintain and migrate e-mail messages over time.
- **Preservation**—Preservation of electronic media over time involves stringent requirements for a suitable physical environment for both daily usage and long-term storage. Failure to adhere systematically to written, accepted standards might result in data loss through oxidation, corrosion, fading, or other sources of media degradation.

CONCLUSION

An e-mail management and preservation program, whether it is drastically scaled down or enterprise wide, requires a large commitment of time and resources. Personnel and financial resources are required. In most cases, users have the ultimate responsibility to keep their e-mail organized in a system and, in consultation with appropriate IT staff, determine the best methods for preserving it over time. If messages have not been properly managed from the beginning, this responsibility requires a frustrating message-by-message appraisal. Properly organized e-mail, on the other hand, permits efficient review in accord with records retention scheduling guidelines, resulting in the disposal of unneeded e-mail and the preservation of e-mail that is archival or has mandated retention.

E-mail is a public record and must be made accessible unless its content is exempt from inspection by statute or other regulation. This fact must be communicated to all users of an agency's e-mail system.

The preservation of e-mail content, context, and structure is vital for carrying forward its authenticity, trustworthiness, and reliability. The format chosen for long-term maintenance of e-mail plays a large role in ensuring the preservation of those characteristics, and it dictates the future conversion or reformatting of the messages to newer, more open platforms. Similarly, the fragile media on which e-mail is created and stored must be checked routinely via an established preservation process to assure it is still readable and stable. If it shows signs of degradation, its contents must be copied to a new medium immediately.

For more information of the management and/or preservation of e-mail or other electronic records, contact the Government Records Branch of the Division of Historical Resources at 919-733-3540, or email records@ncmail.net, or visit its website at http://www.ah.dcr.state.nc.us/sections/archives/rec/default.htm.

RESOURCES

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General Statutes of North Carolina—available at the North Carolina General Assembly's website, http://www.ncga.state.nc.us/.

National Archives and Records Administration—Records management initiatives, including general schedules for electronic records, records management regulations for federal agencies, and records management application standards—http://www.nara.gov/records/index.html.

Minnesota Historical Society—Electronic Records Management Guidelines—http://www.mnhs.org/preserve/records/electronicrecords/erguidelines.html.

New York State Archives—Records Management Services for State and Local Governments—http://www.archives.nysed.gov/services/recmgmt.htm.

Texas State Library and Archives Commission—Functional Requirements for Managing Electronic Records—
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